

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

IN RE SMITH & NEPHEW
BIRMINGHAM HIP RESURFACING
(BHR) HIP IMPLANT PRODUCTS
LIABILITY LITIGATION

MDL No. 2775
Master Docket No. 1:17-md-2775

JUDGE CATHERINE C. BLAKE

This Document Relates to:

Giangiulio v. Smith & Nephew, Inc.,
No. 1:19-cv-01276

Strader v. Smith & Nephew, Inc.
No. 1:18-cv-01535

**DEFENDANT SMITH & NEPHEW, INC.'S MOTION FOR
LEAVE TO EXCEED PAGE LIMITS FOR SUMMARY JUDGMENT MEMORANDA
AND REQUEST FOR EXPEDITED CONSIDERATION**

Pursuant to Local Rule 105.3, Defendant Smith & Nephew, Inc. ("Smith & Nephew") hereby respectfully moves this Court to grant its motion for leave to exceed the page limits in Local Rule 105.3 by ten pages each for its memoranda in support of motions for summary judgments to be filed in the *Strader* and *Giangiulio* cases on December 2, 2021, and for expedited consideration of this motion. In support thereof, Smith & Nephew states as follows:

1. Pursuant to Second Amended Case Management Order No. 18, case-specific summary judgment motions in THA Trial Cases ##1 and 2, *Strader* and *Giangiulio*, are due on December 2, 2021. *See* D.E. 3138 at II.4.B.

2. Local Rule 105.3 provides that memoranda filed in support of a motion or in opposition thereto shall not exceed thirty-five pages absent an order of the Court.

3. Due to the number of claims involved, the federal, New York and Ohio laws that must be addressed in these bellwether cases, and the complexity of the issues, Smith & Nephew

seeks an additional ten pages for each of its memoranda in support of the summary judgment motions in these cases so as to be able to fully address the issues that will be placed before the Court.

4. In connection with prior summary judgment briefing in this MDL, Plaintiffs' Lead Counsel agreed to similar requests for additional pages in exchange for which Plaintiffs would receive the same number of additional pages for their response(s) to the motions. The Court approved each of these prior requests as agreed by the parties.

5. On December 1, 2021, Smith & Nephew's counsel requested the same professional courtesy from Plaintiffs' counsel with respect to the *Strader* and *Giangiulio* summary judgment motions, asking to exceed the thirty-five page limit by ten pages, with Plaintiffs being allowed to do the same. This time, without explanation, Plaintiffs' counsel refused to agree.

WHEREFORE, Smith & Nephew respectfully requests the Court to grant its Motion for Leave to Exceed the Page Limits to permit memoranda in support of summary judgment motions in *Strader* and *Giangiulio* of up to 45 pages each in length. Given the due date of December 2, 2021, Smith & Nephew also requests expedited consideration of this Motion. A proposed order is attached.

Dated: December 1, 2021

Respectfully Submitted,

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Counsel for Defendant Smith & Nephew, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of December, 2021, I electronically filed the foregoing with the Court using the CM/ECF system, and thereby delivered the foregoing by electronic means to all counsel of record.

/s/ Terri S. Reiskin
Counsel for Defendant Smith & Nephew, Inc.